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Request for the inclusion of an additional item in the agenda of the seventy-second session

Observer status in the General Assembly for the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean

Letter dated 5 October 2017 from the Permanent Representative of the Plurinational State of Bolivia to the United Nations addressed to the Secretary-General

I have the honour to write to you in connection with rule 15 of the rules of procedure of the General Assembly, which provides for the possibility of including additional items of an important and urgent character on the agenda of the Assembly during a regular session.

Accordingly, I have the honour to request the inclusion in the agenda of the seventy-second session of an additional item entitled "Granting observer status in the General Assembly to the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean".

In accordance with the provisions of rule 20 of the rules of procedure of the General Assembly, the following are annexed to this letter: an explanatory memorandum (see annex I); a draft resolution (see annex II); and the Agreement Establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean (see annex III*).

I should be grateful if you would have the present letter and its annexes circulated as a document of the General Assembly.

(*Signed*) Sacha **Llorentty Solíz**
Permanent Representative

* Annex III is being circulated in the languages of submission only and without formal editing.

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Annex I

Explanatory memorandum

Observer status for the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean

The present document explains why the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean should be granted observer status by the United Nations.

The explanation is structured as follows:

1. Nature of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean

2. Membership

3. Operating structure

4. Headquarters agreement

5. Functions

6. Spheres of action

7. Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean: an observer of the Green Climate Fund and the Andean Community

8. Alignment with the United Nations and the Development Agenda

1. Nature of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean

The Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean is an international organization governed by public law and was created on 24 July 1992 by the Second Ibero-American Conference of Heads of State and Government, held in Madrid. The Fund was established to support the processes of self-development and the promotion of rights for local communities, indigenous peoples and their organizations in Latin America and the Caribbean. The governing organs and functions of the Fund are based on parity relations between the States and indigenous peoples.

The Agreement Establishing the Fund was deposited with the Secretary-General of the United Nations, on 4 August 4 1993, with registration number 30177.

In 2006, the Heads of State and Government attending the Sixteenth Ibero-American Conference held in Montevideo, decided to commit to consolidation of the Fund as the only international organization specialized in promoting development with identity and focused on the good living (living well) of indigenous peoples and on the recognition of their individual and collective rights.

The Mission of the Fund is to promote good living (living well) as an alternative and dignified life for the peoples, nationalities and indigenous communities of Latin America and the Caribbean, through the full exercise of human and collective rights and with interculturalism as a form of coexistence, which generates equality of opportunities and overcomes all forms of exclusion and domination, developing capacities for technical and political facilitation of the processes of dialogue between States and the leadership of indigenous peoples.

The vision of the Fund is that indigenous peoples are recognized and respected in the full exercise of their rights, cultures and identities and have robust organizations with administrative, technical, economic, political, social and cultural capacities that have been strengthened through their own processes of sustainable development, and that, in intercultural coexistence, they place their identities in the development and the economic and democratic management of the nation States of Latin America.

2. Membership

The Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean has 22 members that are States Members of the United Nations:

- 19 States of Latin America and the Caribbean: Argentina, Belize, Bolivia (Plurinational State of), Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay and Venezuela (Bolivarian Republic of).
- 3 extra-regional States: Belgium, Portugal and Spain.

3. Operating structure

a. Parity structure of the governing bodies

One of the unique characteristics of the Fund is the parity of its governing bodies, which include representatives of indigenous peoples and the Governments of the member States and which have full capacity to make decisions about the future of the institution and its work.

General Meeting

This is the highest governing body, made up of governmental delegates from 22 member States and 18 representatives of indigenous peoples from the member States of Latin America and the Caribbean. The General Meeting is convened every two years to define policies and institutional strategies, and is convened in a special session when necessary.

Board of Directors

This collegiate body is responsible for governing the Fund and is composed of twelve members: six representatives of the indigenous peoples and six government representatives of the member States. The Board of Directors has a Chair and two Vice-Chairs, one of the latter being the representative of an extra-regional State.

Executive Committee

The Executive Committee is composed of the Chair and the two Vice-Chairs of the Board of Directors, which tasks the former with the consideration, approval and monitoring of the institutional operations provided for in the guidelines and plans approved by the General Meeting and the Board of Directors of the Fund.

b. Consultative bodies

The Fund facilitates the functioning and gathers proposals and views that guide the work of subsidiary bodies, called consultative bodies, which manage consultation processes among indigenous peoples, Governments and international

cooperation agencies, in order to define policies and coordinate agendas in an autonomous, bilateral or trilateral manner.

c. Technical Secretariat of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean

The Technical Secretariat consists of a highly qualified technical team; it constitutes the operational branch which is responsible for the technical and administrative management of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean.

The Technical Secretary, who is appointed by the Board of Directors after a competitive and transparent selection process, is responsible for leading and ensuring the correct functioning of this body.

4. Headquarters agreement

In 1993, the headquarters agreement on immunities, exemptions and privileges of the Fund was signed by the then President of the Board of Directors of the Fund and the Minister for Foreign Affairs and Worship of the Plurinational State of Bolivia, and the city of La Paz (Bolivia) was designated as its headquarters.

5. Functions

- Serve as an intercultural and consultation forum for dialogue to support the processes of self-development of indigenous peoples.
- Provide assistance to States for the formulation of public policies that benefit indigenous peoples.
- Manage, channel and administer financial and technical resources for the implementation of priority projects and programmes that contribute to the self-development of indigenous peoples.
- Respect, promote and encourage the full recognition and exercise of the economic, social, cultural, political and environmental rights of indigenous peoples.

6. Spheres of action

The Fund seeks to contribute to the establishment of parity relations between States and indigenous peoples in order to support the exercise of their rights and interculturality.

To this effect, the Fund works in three areas.

- Dialogue and consultation: for the design, adoption and implementation of public policies to uphold the rights of indigenous peoples.
- Economic development with identity: in order to recognize and activate within the economic system the value of the cultural heritage of indigenous peoples.
- Education for equity: to strengthen the capacities of stakeholders to operate and prosper in an intercultural system and strengthen the capacities of indigenous peoples to have an impact and to exercise their rights.

7. Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean: an observer of the Green Climate Fund and the Andean Community

- By Decision B.08/20 of the Accreditation Council of Observer Organizations of the Green Climate Fund, dated 30 August 2017, the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean was accredited in this capacity.
- The Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean was granted observer status with the Consultative Council of Indigenous Peoples of the Andean Community on 26 September 2007, according to Decision No. 674.

8. Alignment with the United Nations and the 2030 Agenda for Sustainable Development

The purposes and principles of the Fund are consistent with the Charter of the United Nations, particularly its article 1.2, which refers to developing "relations of friendship among nations based on respect for the principle of equal rights and self-determination of peoples ...".

The mission and vision of the Fund maintain the holistic approach of the 2030 Agenda for Sustainable Development and its 17 Goals.

Since its creation in July 1992, the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean has supported regional processes of dialogue and consultation that have led to significant progress in a number of areas, including: the recognition, protection and promotion of the rights of indigenous peoples in the member States; training and professional development of indigenous and non-indigenous leaders and authorities; the allocation of pre-investment or leverage resources for indigenous programmes and projects; and the development of appropriate methodologies for the management of development with identity in the region.

The Fund has implemented eight emblematic programmes with significant regional impact in the following areas: consultation processes, indigenous peoples' rights, intercultural indigenous peoples' university, development with identity, indigenous women, communication and information, indigenous peoples in voluntary isolation and at risk of extinction, and indigenous youth.

After 25 years, the Fund is carrying out its work in the context of the adoption and full effect of instruments that support the rights of indigenous peoples, such as the United Nations Declaration on the Rights of Indigenous Peoples (2007); the American Declaration on the Rights of Indigenous Peoples (2016); the mandates issued by the first World Conference on Indigenous Peoples; the Sustainable Development Goals; and the need to support regional and national processes so that indigenous peoples can fully exercise and enjoy their rights.

In recent years, significant contributions have been made to the work of the Fund by the Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the Special Rapporteur on the rights of indigenous peoples.

One of the recommendations made in the report on the sixteenth session of the Permanent Forum on Indigenous Issues (see E/2017/43-E/C.19/2017/11) is that "The Permanent Forum notes the work of the Fund for the Development of

Indigenous Peoples of Latin America and the Caribbean (FILAC) as a regional mechanism to provide support to indigenous peoples. The Forum encourages Member States to strengthen the institutional framework of FILAC and to create similar bodies in other regions of the world".

Finally, the adoption 10 years ago of the United Nations Declaration on the Rights of Indigenous Peoples has given the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean the necessary impetus to implement programmes focused on the rights recognized in the Declaration.

Annex II

Draft resolution

Observer status for the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean

The General Assembly,

Wishing to promote cooperation between the United Nations and the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean,

1. *Decides* to invite the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean to participate in the sessions and the work of the General Assembly in the capacity of observer;

2. *Requests* the Secretary-General to take the action necessary to implement the present resolution.

Annex III

Agreement Establishing the Fund for the development of the Indigenous Peoples of Latin America and the Caribbean

The High Contracting Parties,

Meeting in the city of Madrid, Spain, on the occasion of the Second Ibero-American Summit, held on 23-24 July 1992,

Recalling the terms of the Universal Declaration of Human Rights, a/ the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, b/

Considering the international norms set forth in the Indigenous and Tribal Peoples Convention of the International Labour Organisation, adopted by the International Labour Conference in 1989,

Hereby adopt, in the presence of representatives of indigenous peoples of the region, the following Agreement establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean.

Article 1
Purpose and functions

1.1 Purpose. The purpose of the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, hereinafter referred to as the "Indigenous Fund", is to establish a mechanism for supporting the processes of self-development of indigenous peoples, communities and organizations of Latin America and the Caribbean, hereinafter referred to as "indigenous peoples".

The term "indigenous peoples" shall mean indigenous peoples descended from populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonization or the establishment of present State boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions. In addition, self-identification as indigenous shall be regarded as a fundamental criterion for determining the groups to which the provisions of this Agreement apply.

The use of the term "peoples" in this Agreement shall not be construed as having any implications as regards the rights which may attach to the term under international law.

1.2. Functions. In order to achieve the purpose set forth in paragraph 1.1 of this article, the Indigenous Fund shall have the following basic functions:

(a) To provide a forum for dialogue to reach agreement on the formulation of development policies, technical assistance operations and programmes and projects of interest to indigenous peoples, with the participation of Governments of States of the region, Governments of other States, agencies providing resources and indigenous peoples themselves;

(b) To channel financial and technical resources to priority projects and programmes agreed upon with indigenous peoples, making sure that they help create conditions for the self-development of those peoples;

(c) To provide training resources and technical assistance to support institution-building, management capacity, human resources training, information resources and research for indigenous peoples and their organizations.

Article 2
Members and resources

2.1. Members. The members of the Indigenous Fund shall be those States which deposit the instrument of ratification with the Secretariat of the United Nations, in accordance with their domestic constitutional requirements and in conformity with paragraph 14.1 of article 14 of this Agreement.

2.2. Resources. The resources of the Indigenous Fund shall consist of contributions by member States, contributions by other States, public or private multilateral, bilateral or national agencies and institutional donors and net income generated by the activities and investments of the Indigenous Fund.

2.3. Instruments of contribution. The instruments of contribution shall be protocols signed by each member State and establishing their respective commitments to contribute resources to the Indigenous Fund to form the capital of that Fund, in accordance with paragraph 2.4 below. Other contributions shall be governed by the provisions of article 5 of this Agreement.

2.4. Nature of contributions. Contributions to the Indigenous Fund may be made in foreign currency, local currency, technical assistance or in kind, in accordance with the rules and regulations laid down by the General Meeting. Contributions in local currency shall be subject to maintenance of their value and exchange rate.

Article 3
Organizational structure

3.1. Organs of the Indigenous Fund. The organs of the Indigenous Fund shall be the General Meeting and the Board of Directors.

3.2. General Meeting.

(a) Composition. The General Meeting shall be composed of:

(i) One Government-accredited delegate for each member State; and

(ii) One indigenous peoples' delegate for each State of the region that is a member of the Indigenous Fund, accredited by his Government following the relevant consultations with the indigenous organizations of that State.

(b) Decisions

(i) Decisions shall be taken by unanimous affirmative vote of delegates of States of the region that are members of the Indigenous Fund, together with a majority of affirmative votes of representatives of other member States and a majority of affirmative votes of delegates of indigenous peoples;

(ii) On matters affecting indigenous peoples of one or more countries, the affirmative vote of their delegates shall also be required.

(c) Rules of Procedure. The General Meeting shall lay down its rules of procedure and such other rules and regulations as it deems necessary for the functioning of the Indigenous Fund.

(d) The General Meeting shall have the following functions, among others:

(i) To formulate the overall policy of the Indigenous Fund and to adopt such measures as are necessary for the fulfilment of its objective;

(ii) To approve the basic criteria for the preparation of plans, projects and programmes to be supported by the Indigenous Fund;

(iii) To approve membership status, in accordance with the stipulations of this Agreement and such rules and regulations as may be established by the General Meeting;

(iv) To approve the annual programme and budget and the periodic financial statements of the Indigenous Fund;

(v) To elect members of the Board of Directors referred to in paragraph 3.3 and to delegate to the Board such powers as may be necessary for the functioning of the Indigenous Fund;

(vi) To approve the technical and administrative structure of the Indigenous Fund and appoint the Technical Secretary;

(vii) To approve special agreements enabling non-member States, as well as public and private organizations, to co-operate with or participate in the Indigenous Fund;

(viii) To approve any amendments to the Agreement establishing the Fund and submit them to the member States for ratification, where appropriate;

(ix) To terminate the operations of the Indigenous Fund and appoint liquidators.

(e) Meetings. The General Meeting shall hold a regular meeting once a year and shall hold special meetings, whenever necessary, on its own initiative or at the request of the Board of Directors, in accordance with the procedures established in the rules of procedure of the General Meeting.

3.3 Board of Directors

(a) Composition. The Board of Directors shall be composed of nine members elected by the General Meeting and representing in equal proportions the Governments of States of the region that are members of the Indigenous Fund, the indigenous peoples of those same member states and the Governments of other member states. Members of the Board of Directors shall serve for a two-year term, preferably following a system of rotation.

(b) Decisions

(i) Decisions shall be taken by unanimous affirmative vote of delegates of States of the region that are members of the Indigenous Fund, together with a majority of affirmative votes of representatives of other member States and a majority of affirmative votes of delegates of indigenous peoples;

(ii) In order to be valid, decisions of the Board of Directors which concern a specific country must also be approved, through the most appropriate mechanisms, by the Government of the State concerned and by the recipient indigenous people.

(c) Functions. In accordance with the rules, regulations and guidelines approved by the General Meeting, the Board of Directors shall have the following functions:

(i) To propose to the General Meeting supplementary rules and regulations for fulfilling the objectives of the Indigenous Fund, including the rules of procedure of the Board;

(ii) To appoint a Chairman from among its members, using the voting procedures established in paragraph 3.3 (b) above;

(iii) To take the measures necessary for the implementation of this Agreement and of the decisions of the General Meeting;

(iv) To evaluate the technical and administrative needs of the Indigenous Fund and propose the corresponding measures to the General Meeting;

(v) To administer the resources of the Indigenous Fund and authorize the allocation of credits;

(vi) To submit to the General Meeting for consideration the proposed annual programme and budget and the periodic financial statements of the Indigenous Fund;

(vii) To consider and approve programmes and projects eligible for support from the Indigenous Fund, in accordance with its objectives, rules and regulations;

(viii) To arrange for and provide technical assistance and the support required for the preparation of projects and programmes;

(ix) To promote and establish mechanisms for consultation and agreement among member States of the Indigenous Fund, co-operating entities and recipients;

(x) To propose to the General Meeting the appointment of the Technical Secretary of the Indigenous Fund;

(xi) To suspend the operations of the Indigenous Fund temporarily until such time as the General Meeting has had an opportunity to examine the situation and take the relevant measures;

(xii) To exercise the other powers conferred on it by this Agreement and to perform such functions as may be assigned to it by the General Meeting.

(d) Meetings. The Board of Directors shall meet at least three times a year, in April, August and December, and shall hold special meetings whenever it deems necessary.

Article 4
Administration

4.1 Technical and administrative structure

(a) The General Meeting and the Board of Directors shall determine and establish the technical and administrative management structure of the Indigenous Fund, in accordance with articles 3.2 (d) (vi) and 3.3 (c) (iv) and (x).This structure, hereinafter referred to as the Technical Secretariat, shall be made up of persons who are highly qualified in terms of professional training and expertise; this staff shall consist of no more than 10 persons — six professionals and four administrative staff. Additional staffing requirements for projects may be met by recruiting temporary staff.

(b) Should it deem necessary, the General Meeting may expand or alter the composition of the Technical Secretariat.

(c) The Technical Secretariat shall function under the direction of a Technical Secretary appointed in accordance with the provisions of paragraph (a) above.

4.2. Management contracts. The General Meeting may authorize the signing of management contracts with entities that have the resources and expertise to undertake the technical, financial and administrative management of the resources and activities of the Indigenous Fund.

Article 5
Co-operating entities

5.1. Co-operation with entities which are not members of the Indigenous Fund. The Indigenous Fund may sign special agreements, approved by the General Meeting, allowing non-member States, as well as public and private, local, national and international organizations, to contribute to the capital of the Fund, participate in its activities, or both.

Article 6
Operations and activities

6.1. Organization of operations. The Indigenous Fund shall organize its operations according to a system of classification by programme and project area, in order to facilitate the concentration of administrative and financial efforts and the programming by means of periodic financial statements that will permit the fulfilment of its specific objectives.

6.2. Recipients. The direct, exclusive recipients of programmes and projects supported by the Indigenous Fund shall be the indigenous peoples of Latin American and Caribbean States which are members of the Fund or have signed a special agreement with the Fund enabling their country's indigenous peoples to participate in its activities, in accordance with article 5.

6.3. Criteria for eligibility and priority. The General Meeting shall adopt specific criteria for determining the eligibility of applicants to and recipients of the Indigenous Fund in an interdependent manner, taking into account the diversity of its recipients, and for establishing priorities among programmes and projects.

6.4. Funding conditions.

(a) Taking into account the diverse and particular characteristics of the potential recipients of programmes and projects, the General Meeting shall establish flexible parameters to be used by the Board of Directors in determining funding modalities and establishing conditions for the execution of each programme and project, in consultation with the parties concerned.

(b) In accordance with the criteria mentioned, the Indigenous Fund shall grant non-reimbursable resources, credits, guarantees or other appropriate funding modalities, or combinations thereof.

Article 7
Evaluation and follow-up

7.1. Evaluation of the Indigenous Fund. The General Meeting shall periodically evaluate the overall functioning of the Indigenous Fund, according to whatever criteria and methods it deems appropriate.

7.2. Programme and project evaluation. The progress of programmes and projects shall be evaluated by the Board of Directors. Special consideration shall be given to requests to that end made by the recipients of such programmes and projects.

Article 8
Withdrawal of members

8.1. Right to withdraw. Any member State may withdraw from the Indigenous Fund by giving written notice to the Chairman of the Board of Directors, who shall notify the Secretariat of the United Nations accordingly. Withdrawal shall take effect one year from the date on which such notification is received.

8.2. Liquidation of accounts.

(a) Member States' contributions to the Indigenous Fund shall not be refunded in the event of their withdrawal.

(b) A member State which has withdrawn from the Indigenous Fund shall remain liable for any sums owing to the Fund and for any obligations entered into with it prior to the date of termination of its membership.

Article 9
Termination of operations

9.1. Termination of operations. The Indigenous Fund may terminate its operations by decision of the General Meeting, which shall appoint liquidators and decide on the settlement of debts and the proportional distribution of assets among its members.

Article 10
Legal Personality

10.1. Legal status.

(a) The Indigenous Fund shall have legal personality and full powers to:

(i) Conclude contracts;

(ii) Acquire and transfer movable and immovable property;

(iii) Accept and grant loans and donations, offer guarantees, buy and sell securities, invest funds not committed for its operations and carry out the financial transactions necessary for the fulfilment of its purpose and functions;

(iv) Bring legal or administrative proceedings and appear in court;

(v) Take any other action required for the performance of its functions and the fulfilment of the objectives of this Agreement.

(b) The Fund shall exercise these powers in accordance with the legal requirements of the member State in whose territory it is conducting its operations and activities.

Article 11
Immunities, exemptions and privileges

11.1. Granting of immunities. Member States shall take, in accordance with their legal system, the measures required to confer on the Indigenous Fund the immunities, exemptions and privileges necessary for the fulfilment of its objectives and the performance of its functions.

Article 12
Amendments

12.1. Amendments to the Agreement. This Agreement may be amended only by unanimous agreement of the General meeting, subject, where necessary, to ratification by the member States.

Article 13
General Provisions

13.1 Headquarters of the Fund. The headquarters of the Indigenous Fund shall be at La Paz, Bolivia.

13.2 Depositaries. Each member State shall designate its central bank as depositary, so that the Indigenous Fund can maintain its disposable and other assets in the currency of that member State. If the member State does not have a central bank, it shall designate, in agreement with the Indigenous Fund, some other institution for that purpose.

Article 14
Final provisions

14.1 Signature and acceptance. This Agreement shall be deposited with the Secretariat of the United Nations, where it shall remain open for signature by representatives of Governments of States of the region and other States wishing to become members of the Indigenous Fund.

14.2 Entry into force. This Agreement shall enter into force when the instrument of ratification has been deposited, in accordance with paragraph 14.1 of this article, by at least three States of the region.

14.3 Denunciation. Any member State which has ratified this Agreement may denounce it by sending official notification to the Secretary-General of the United Nations. The denunciation shall take effect one year after the date of its registration.

14.4 Commencement of operations

(a) The Secretary-General of the United Nations shall convene the first meeting of the General Meeting of the Indigenous Fund as soon as this Agreement enters into force in accordance with paragraph 14.2.

(b) At its first meeting, the General Meeting shall take the necessary measures to appoint the Board of Directors, as provided in paragraph 3.3 (a) of article 3, and to determine the date on which the Indigenous Fund is to commence its operations.

Article 15
Transitional provisions

15.1 Interim Committee. Once this Agreement has been signed by five States of the region, and without this giving rise to obligations for States that have not ratified it, an Interim Committee shall be established with composition and functions similar to those described for the Board of Directors in paragraph 3.3 of article 3 of this Agreement.

15.2 Under the direction of the Interim Committee, a Technical Secretariat shall be established as indicated in paragraph 4.1 of article 4 of this Agreement.

15.3 The activities of the Interim Committee and the Technical Secretariat shall be funded by voluntary contributions from States that have signed this Agreement and by contributions from other States and entities, through such technical co-operation and other forms of assistance as States or other entities may arrange with international organizations.